

IN THE UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF NEBRASKA

UNITED STATES OF AMERICA,

Plaintiff,

vs.

ISA M. HARRIS,

Defendant.

4:15-CR-3041

ORDER

This matter is before the Court on correspondence from the defendant that the Court has filed as a motion for copies ([filing 130](#)). The defendant asks the Court to send him the "transcripts to [his] case." [Filing 130](#).

It is not clear exactly what the defendant is asking for. Because he did not appeal, no transcript was prepared of his March 10, 2017 sentencing. An indigent defendant bringing a postconviction proceeding under [28 U.S.C. § 2255](#) may have a transcript prepared at the government's expense, if the suit is not frivolous and the transcript is needed to decide the issue presented by the suit. [28 U.S.C. § 753](#). But any request for a free transcript prior to the filing of a [§ 2255](#) motion is premature. *Chapman v. United States*, [55 F.3d 390, 390-91 \(8th Cir. 1995\)](#). And the defendant has not filed such a motion.

Transcripts have been prepared and filed of other proceedings: specifically, the hearing on the defendant's motion to dismiss ([filing 49](#)) and the change of plea hearing ([filing 86](#)). And the Court infers that the defendant may be asking for copies of other filings as well, although he does not say what. But the defendant does not have the right to receive copies of documents without payment, even if he is indigent. *See*, [28 U.S.C. § 1915](#); *Lewis v. Precision Optics, Inc.*, [612 F.2d 1074, 1075 \(8th Cir. 1980\)](#). The Court will, therefore, deny the defendant's motion for copies.

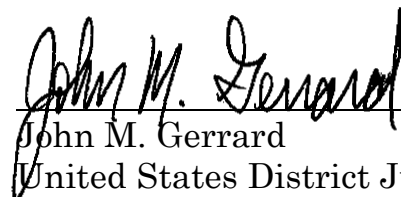
The defendant may, if he files a § 2255 motion, move for a sentencing transcript to be prepared pursuant to § 753, and the Court will at that time consider whether his motion is frivolous and the transcript is necessary. Alternatively, the defendant can pay for a transcript to be prepared and for copies he requests. The Court will direct the Clerk's office to provide the defendant with a copy of a request for transcript form, which the defendant may complete and return. The defendant's sentencing hearing was recorded by a court reporter, so if the defendant returns the request for transcript form, the court reporter will contact the defendant to arrange for payment of the fee. The defendant does not need to request preparation of a transcript of the other hearings listed above, because those transcripts were already prepared for the Court's use. So, for the hearing on the motion to dismiss and the change of plea hearing, he would need to pay for the copies at 50¢ per page. Those transcripts would cost \$42 and \$13.50, respectively.

IT IS ORDERED:

1. The defendant's motion for copies (filing 130) is denied.
2. The Clerk of the Court is directed to provide the defendant with a copy of this order and a request for transcript form.

Dated this 13th day of September, 2017.

BY THE COURT:



John M. Gerrard
United States District Judge